



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

AB

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,834	11/28/2001	Ralph Barclay Ross	CAF-28502/03	1383
25006	7590	03/03/2004	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE ANDERSON & CITKOWSKI, PC 280 N OLD WOODARD AVE SUITE 400 BIRMINGHAM, MI 48009			GORDON, STEPHEN T	
		ART UNIT		PAPER NUMBER
		3612		
DATE MAILED: 03/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/889,834	ROSS, RALPH BARCLAY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen Gordon	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 January 2004.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15, 18 and 23-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 18 is/are allowed.

6) Claim(s) 1,2,5-9,11-15 and 23-26 is/are rejected.

7) Claim(s) 3,4 and 10 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

#### DETAILED ACTION

1. The proposed red-line drawing amendments filed 1-7-04 are approved by the examiner and the prior objections to the drawings are withdrawn. Applicant is required to submit formal drawings including these proposed changes before issue if the application is ultimately allowed.
2. Claims 14-15 and 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 14, lines 7 and 8 as newly amended are somewhat confusing. As best understood, "member ends" on line 7 and "has ends which" on line 8 should be replaced with –member has ends which—and –ends—respectively to correct the claim in this regard.

Re claim 24, lines 7-9 as newly amended are generally awkward and confusing. As best understood, "the elastomeric jackets defining vertical profiles" in line 7 should be replaced with –each elastomeric jacket defining vertical profiles on—to correct the claim in this regard.

Re claim 26, "the elongate member" at the end of the claim lacks clear antecedent basis and should apparently be –one of said elongate members--.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-6, 11-13, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Robertson.

Robertson teaches a retaining apparatus for elongate objects including a frame base 2, side members (i.e. the outermost two bolts 6), a rigid cross-bar packing member 1, a deformable portion (resilient rubber member 4), and means for retaining (at least the centermost bolt 6) as broadly claimed.

Re claim 1 as newly amended, element 4 defines an elastomeric jacket as broadly claimed. Additionally, in as much as element 4 wraps around at least the bottom flanges of the I-beam shape of element 1 (see figure 1), it is deemed to "surround" the element 1 cross-bar as broadly claimed.

Re claims 11 and 13, Robertson is configured as broadly claimed.

Re claim 23, the vertical portions of jacket 4 on the sides of the lower I-beam flanges of element 1 would function as broadly claimed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson.

Robertson teaches all of the claimed features as discussed above regarding claim 1 but fails to specifically teach a second frame as defined.

Robertson is designed to be a support for a conduit. If it were desired to use the Robertson device with an application with a relatively long conduit, it would have been obvious to one of ordinary skill in the art to utilize multiple spaced ones of the Robertson device to provide sufficient support. Such multiple devices would define a second frame as broadly claimed.

Re claims 8-9, at least the center conduit 5 would define a rigid connector as broadly claimed.

7. Claims 3-4 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 14-15 and 24-26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. Claim 18 is allowed.

10. Applicant's arguments with respect to the claims presently rejected in view of the prior art have been considered but are moot in view of the new ground(s) of rejection as applied to the modified claim language.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Gordon

  
STEPHEN T. GORDON  
PRIMARY EXAMINER